

J. Greg Coulter (State Bar No. 016890)
Jacqueline F. Langland (State Bar No. 035422)
JACKSON LEWIS P.C.
2111 East Highland Avenue, Suite B-250
Phoenix, AZ 85016
Telephone: (602) 714-7044
Facsimile: (602) 714-7045
Greg.Coulter@jacksonlewis.com
Jacqueline.Langland@jacksonlewis.com
Attorneys for Defendant Old Dominion Freight Line, Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Dennis Vetter,
Plaintiff,

v.

Old Dominion Freight Line,
Concentra and Sleep Charge
Defendants.

Case No.:

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and LRCiv 3.6, Defendant Old Dominion Freight Line, Inc. (“Old Dominion”) files this Notice of Removal to the U.S. District Court for the District of Arizona on the following grounds:

1. Plaintiff Dennis Vetter (“Plaintiff”) filed this civil action in the Arizona Superior Court, Maricopa County, Case No. CV2022-010353, with the above caption on or about August 10, 2022.

2. Copies of the Summons, Complaint, Certificate of Compulsory Arbitration, and Plaintiff’s Demand for Jury Trial were served via certified mail on October 24, 2022.

3. Pursuant to Local Rule 3.6, the following documents are attached as **Exhibits A - N** and constitute a complete copy of the file in the Arizona Superior

1 Court, Maricopa County file number CV2022-010353:

- 2 a. Superior Court Docket (**Exhibit A**);
- 3 b. Complaint (**Exhibit B**);
- 4 c. Summons to Old Dominion Freight Line (**Exhibit C**);
- 5 d. Summons to Concentra (**Exhibit D**);
- 6 e. Summons to Sleep Charge (**Exhibit E**);
- 7 f. Certificate of Compulsory Arbitration Old Dominion Freight Line
- 8 (**Exhibit F**);
- 9 g. Certificate of Compulsory Arbitration – Concentra (**Exhibit G**);
- 10 h. Certificate of Compulsory Arbitration – Sleep Charge (**Exhibit H**);
- 11 i. Plaintiff’s Demand for Jury Trial (**Exhibit I**);
- 12 j. Civil Coversheet (**Exhibit J**);
- 13 k. Notice of Intent to Dismiss (**Exhibit K**);
- 14 l. Affidavit of Service (Sleep Charge, **Exhibit L**);
- 15 m. Affidavit of Service (Old Dominion Freight Line, **Exhibit M**);
- 16 n. Affidavit of Service (Concentra, **Exhibit N**).

17 4. Pursuant to LRCiv 3.6(b), undersigned counsel for Defendant submits the
18 attached verification verifying that, to the best of his knowledge and belief, the
19 documents attached as **Exhibits A-N** to this notice are true and complete copies of all
20 pleadings and other documents filed in the state court proceeding.

21 5. This notice is being filed within thirty days of Defendant’s receipt of
22 service of the Summons and Complaint. Thus, this notice is timely filed under 28
23 U.S.C. § 1446(b).

24 6. There are currently no pending or undecided motions before the state
25 court.

26 7. Contemporaneously with this filing, Defendant is also filing a Notice of
27 Filing of Notice of Removal with the Clerk of the Superior Court of the State of
28 Arizona, in the County of Maricopa. Defendant, on this same date, has provided

1 written notice of this filing to Plaintiff, as required under 28 U.S.C. § 1446 and Local
2 Rule 3.6, attached as **Exhibit O**.

3 8. This Court has original jurisdiction over Plaintiff's claims based on
4 diversity of citizenship.

5 9. Diversity of citizenship exists where the lawsuit is between citizens of
6 different states and the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332(a)(1).

7 10. For purposes of diversity jurisdiction, a corporation is deemed to be a
8 citizen of: (1) its state of incorporation and (2) the state where it has its principal place
9 of business. 28 U.S.C. § 1332(c)(1).

10 11. In analyzing the amount in controversy, the Court assesses and assumes
11 the “maximum recovery” the Plaintiff could reasonably recover. *Strojnink v. Hyatt*
12 *Hotels Corp.*, No. CV-21-00741-PHX-DWL, 2022 U.S. Dist. LEXIS 29957, at *9 (D.
13 Ariz. Feb. 18, 2022) (quoting *Arias v. Residence Inn by Marriott*, 936 F.3d 920, 927
14 (9th Cir. 2019)). Nevertheless, a defendant does “not need to prove to a legal certainty
15 that the amount in controversy requirement has been met.” *Id.* at *10 (quoting *Dart*
16 *Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 88–89 (2014)). Rather, a
17 Defendant need only “provide evidence establishing that it is ‘more likely than not’
18 that the amount in controversy exceeds that amount.” *Id.* (quoting *Sanchez v.*
19 *Monumental Life Ins. Co.*, 102 F.3d 398, 404 (9th Cir. 1996)).

20 12. In this case, complete diversity of citizenship exists between the parties.

21 13. Plaintiff admits in Paragraph 1 of his Complaint that he is a citizen of
22 Arizona. *See* Exhibit B.

23 14. Old Dominion is a Virginia corporation that maintains its principal place
24 of business in Thomasville, North Carolina. *See* Declaration of Laura Williams at ¶¶ 1–
25 4, attached as **Exhibit P**.

26 15. Upon information and belief, Defendant SleepCharge is a registered
27 trademark of Nox Health Group, which is a Georgia Corporation with its principal
28 place of business at 5000 Research Court, Suite 500, Suwanee, GA, 30024, USA. *See*

1 **Exhibit Q.** The information contained in Exhibit Q was retrieved on November 11,
 2 2022 by Old Dominion’s counsel from publicly available sources, including:
 3 SleepCharge’s website (<https://sleepcharge.com/contact-us/>), Nox Health’s website
 4 (<https://www.noxhealth.com/contact/>), and the Georgia Secretary of State’s website
 5 (<https://ecorp.sos.ga.gov/BusinessSearch>).

6 16. As to Defendant Concentra, the materials submitted with Plaintiff’s
 7 Complaint show that he was seen at Concentra Urgent Care located at 5340 W.
 8 Buckeye Rd., Ste. 3, Phoenix, Arizona, 85043. Upon information and belief, Concentra
 9 Urgent Care is owned by Concentra Health Services, Inc. and is a Pennsylvania
 10 company with its principal place of business at 5080 Spectrum Dr, 1200 W Tower,
 11 Addison, Texas, 75001. *See Exhibit R.* The information contained in Exhibit R was
 12 retrieved on November 11, 2022 by Old Dominion’s counsel from publicly available
 13 sources, including: Concentra’s website ([https://www.concentra.com/urgent-care-](https://www.concentra.com/urgent-care-centers/arizona/phoenix/southwest-51st-and-buckeye-urgent-care/#nearbylocations_g=33.43748|-112.17482&nearbylocations_o=DistanceMi%2CAscending)
 14 [centers/arizona/phoenix/southwest-51st-and-buckeye-urgent-](https://www.concentra.com/urgent-care-centers/arizona/phoenix/southwest-51st-and-buckeye-urgent-care/#nearbylocations_g=33.43748|-112.17482&nearbylocations_o=DistanceMi%2CAscending)
 15 [care/#nearbylocations_g=33.43748|-](https://www.concentra.com/urgent-care-centers/arizona/phoenix/southwest-51st-and-buckeye-urgent-care/#nearbylocations_g=33.43748|-112.17482&nearbylocations_o=DistanceMi%2CAscending)
 16 [112.17482&nearbylocations_o=DistanceMi%2CAscending](https://www.concentra.com/urgent-care-centers/arizona/phoenix/southwest-51st-and-buckeye-urgent-care/#nearbylocations_g=33.43748|-112.17482&nearbylocations_o=DistanceMi%2CAscending)), the Arizona Secretary of
 17 State’s website (<https://apps.azsos.gov/apps/tntp/se.html>), and the Pennsylvania
 18 Department of State’s website (<https://file.dos.pa.gov/search/business>).

19 17. The amount in controversy exceeds \$75,000. Paragraph 2 of Plaintiff’s
 20 Complaint indicates that he is seeking \$300,000 or more in damages. *See Exhibit B.*
 21 The “Injuries” section of Plaintiff’s Complaint and Paragraphs 32 and 33 of the typed
 22 “Statement of Facts and Breach” attached to the Complaint state that Plaintiff’s
 23 purported damages consist of lost wages, loss of consortium, and distress/anguish. *See*
 24 *Exhibit B.* The summons also indicates that Plaintiff is seeking damages in excess of
 25 \$50,000. *See Exhibit C.*

26 18. Based on the complete diversity of citizenship of the parties and the
 27 amount in controversy, jurisdiction is proper under 28 U.S.C. §1332.

28 19. Venue lies in the United States District Court for the District of Arizona

1 pursuant to 28 U.S.C. §§ 1441(a) and 1391(b)(2) because this district embraces the
2 place in which the state court action has been pending and this is the judicial district in
3 which the alleged events giving rise to the claims occurred.

4 For the foregoing reasons, Defendant removes this case from the Superior Court
5 of the State of Arizona to the United States District Court, District of Arizona.

6
7 Dated: November 23, 2022.

8 JACKSON LEWIS P.C.

9 By: /s/ J. Greg Coulter
10 J. Greg Coulter
11 Jacqueline F. Langland
12 Attorney for Defendant
13 Old Dominion Freight Line, Inc.
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CERTIFICATE OF SERVICE

I hereby certify that on November 23, 2022, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and sent a copy by mail to the following address:

Dennis Vetter
12398 S. 222 Avenue
Buckeye, AZ 85326
dlvetter1@gmail.com
Pro se Plaintiff

Sleep Charge
5000 Research Ct, Suite 500
Suwanee, GA 30024

Concentra
5080 Spectrum Dr., #1200
West Addison, Texas 75001

By: /s/ Erica Randall

4864-5419-9872, v. 1